

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	4:04CR3105
)	
Plaintiff,)	
)	MEMORANDUM
vs.)	AND ORDER
)	
PATRICK BURKE,)	
)	
Defendant.)	

After a telephone conference with defense counsel, Mr. Davis, the prosecutor, Mr. Russell, and the probation officer, Mr. Nelson, I conclude that the sentencing record and related judgment contains a clerical error arising from oversight or omission within the meaning of Federal Rule of Criminal Procedure 36. That is, the record and the judgment incorrectly omitted the fact that the defendant's federal sentence was to run concurrently with a state sentence. The United States explicitly agreed that such error occurred. Therefore,

IT IS ORDERED that

1. The defendant's motion (filing 42) is granted as provided herein.
2. The courtroom deputy shall prepare and submit to me for review and signature an amended judgment in a criminal case referring to Federal Rule of Criminal Procedure 36 as the reason for the amendment and stating, in the imprisonment section of the judgment, that: "This federal sentence will be served concurrently with the sentence imposed in the Sarpy County, Nebraska District Court in case number CR04-709." No other changes to the judgment should be made.

3. Upon the filing of the amended judgment, the probation officer shall provide the Bureau of Prisons with a copy of this memorandum and order and a copy of the amended judgment.

July 6, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge